



CMA.No.630 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 10.03.2025

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THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CMA.No.630 of 2025

Chandrabose

... Appellant

Vs.

1.Chandrasekar
2.Elavarasan
3.United India Insurance Company Limited,
Rep by its Branch Manager,
Having office at
No.19, Sudha Complex, Neela South Street,
Nagapattinam.

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, to enhance the amount awarded in MCOP.No.13 of 2017, dated 28.07.2023 on the file of the Motor Accident Claims Tribunal (In the Court of Sub-Court), Karaikal.

For Appellant :Mr.K.Varadhakamaraj

For Respondents :Mr.S.Arunkumar for R3
Notice dispensed with for R1 and R2



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J U D G M E N T

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Not satisfied with the quantum of compensation awarded by the Motor Accident Claims Tribunal, the claimant/appellant has come before this Court by way of this appeal.

2. It is not in dispute that the appellant/claimant suffered injury in a road accident that had taken place on 11.03.2016. According to him, he was travelling in the cabin of the goods carrier TATA ACE, driven by the first respondent in a rash and negligent manner. It was stated in the claim petition that the first respondent driver of the vehicle dashed against the tree, as a result of which, the claimant sustained head injury. It was clearly stated in the claim petition that the claimant was the owner of the goods carried in the vehicle. The claim petition was filed seeking compensation of Rs.8,50,000/-.

3. The 1st respondent is the driver and 2nd respondent is the owner of the offending vehicle. The third respondent who is the insurer of the vehicle had opposed the claim petition by denying the age, income and



avocation etc. It was also stated by the insurer that the first respondent did not possess the valid driving licence. It was also stated that at the time of accident, the claimant was travelling in the goods vehicle and hence, the insurer was not liable.

4. The claimant was examined as PW.1, who deposed in tune with the averment contained in the claim petition. PW.1 stated that he travelled in the cabin of goods vehicle as owner of the goods namely cooked food. The Tribunal based on evidence of PW.1 and contents of Ex.P1-FIR, came to the conclusion, the claimant travelled in the cabin of vehicle as owner of goods and hence he was entitled to compensation for the injuries suffered by him.

5. Based on the evidence of PW.1 and contents of the FIR marked as Ex.P1, the Tribunal rightly came to the conclusion that the negligence was on the part of the first respondent driver. The above said findings had attained finality and the same has not been questioned by the insurer. Therefore, the only dispute in this appeal is the quantum of compensation.



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6. The learned counsel appearing for the appellant would submit that the amount of Rs.15,000/- awarded by the Tribunal under the head loss of income is very much on the lower side. He further submitted that the claimant suffered fracture of medial wall of right orbit with ethmoidal hemsinus.

7. The learned counsel appearing for the second respondent/Insurance Company would submit that having regard to the nature of injury suffered by the claimant, the amount of compensation awarded by the Tribunal is just and reasonable.

8. The medical records produced by the claimant as Ex.P4-discharge summary would establish the following injury:

“RTA with head injury, displaced fracture of medial wall of right orbit with ethmoidal hemsinus.”

Since there is no evidence available on record to show that the injuries suffered by the claimant did affect his avocation, the Tribunal has



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not applied multiplier method. Having regard to the fact that the claimant failed to appear before the Medical Board, the Tribunal rightly granted lumpsum of Rs.15,000/-. Having regard to the fact that the claimant failed to appear before the Medical Board, the Tribunal awarded Rs.50,000/- under the head future loss of earnings for the grievous injury sustained by him. Since there is no evidence available on record to show that the injury suffered by him affects his avocation, no amount can be awarded under the head future loss of earning. However, having regard to the fact that the claimant suffered grievous injuries like fracture of right orbit, this Court is inclined to grant a sum of Rs.50,000/- towards grievous injuries suffered by the claimant in the accident. Having regard to the date of accident, the notional income is fixed at Rs.15,000/- and the claimant is entitled to Rs.30,000/- under the head loss of income. Likewise, the claimant is also entitled to Rs.10,000/- towards loss of amenities and Rs.1,000/- awarded by the Tribunal under the head damages to clothes is set aside. The award under various other heads are confirmed.



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9. Therefore, the award passed by the Tribunal is modified as

follows:-

Sl. No.	Description	Compensation awarded by the Tribunal	Compensation awarded by this Court
1.	For grievous injury sustained by the claimant in the accident including pain and suffering	Rs.50,000/-	Rs.50,000/-
2.	Loss of income	Rs.15,000/-	Rs.30,000/-
3.	Attender expenses	Rs.5,000/-	Rs.5,000/-
4.	Transport expenses	Rs.5,000/-	Rs.5,000/-
5.	Nutrition expenses	Rs.3,000/-	Rs.3,000/-
6.	Damage to the dress	Rs.1,000/-	-
7.	Medical Bills Ex.P6	Rs.7,815/-	Rs.7,815/-
8.	Loss of amenities	-	Rs.10,000/-
	Total	Rs.86,815/-	Rs.1,10,815/-

10. In view of the discussions made earlier, the total compensation awarded by the Tribunal is enhanced to Rs.1,10,815/- as against Rs.86,815/- as ordered by the Tribunal. The 3rd respondent/Insurance Company is directed to deposit the enhanced award amount of Rs.1,10,815/- together with interest at the rate of 7.5% per annum from the date of claim petition to the date of realisation, after deducting the amount already



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deposited, if any, to the credit of MCOP.No.13 of 2017, dated 28.07.2023

on the file of the Motor Accident Claims Tribunal (In the Court of Sub-Court), Karaikal, within a period of four weeks from the date of receipt of copy of this judgment. On such deposit, the appellant/claimant is entitled to withdraw the award amount by making formal application.

11. With the above direction, the Civil Miscellaneous Appeal is partly allowed. No costs.

10.03.2025

Index : Yes/No

Speaking order: Yes/No

Neutral Citation: Yes/No

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To

1.The Motor Accident Claims Tribunal,
Subordinate Court, Karaikal.

2.The Section Officer
VR Section, High Court, Madras.



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S.SOUNTHAR, J.

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